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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,725	07/15/2003	Franciscus Laurens Moll	VENPRO.004C1C1	7045
7590 01/26/2005			EXAMINER	
MICHELLE C. KIM JONES DAY 555 W. FIFTH STREET SUITE 4600 LOS ANGELES, CA 90013-1025			BLANCO, JAVIER G	
			ART UNIT	PAPER NUMBER
			3738	
DATE MAILED: 01/26/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/619,725

**Applicant(s)**

MOLL ET AL.

**Examiner**

Javier G. Blanco

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 4-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 08/992,350.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicants' election without traverse of Invention I, claims 1-3, which is drawn to a method of implanting a valve prosthesis in the reply filed on November 9, 2004 is acknowledged.
2. Claims 4-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 9, 2004.

### *Specification*

3. The disclosure is objected to because of the following informality: please update the status of Application No. 09/630, 403 (i.e., now US 6,605,112). Appropriate correction is required.

### *Claim Objections*

4. Claims 1 and 2 are objected to because of the following informalities:
  - a. Regarding claim 1, please add (i) --hollow-- in front of "distal" (see line 11), and (ii) --of the introducer-- after "portion" (see line 11). Appropriate correction is required.
  - b. Regarding claim 2, please add --hollow-- in front of "distal" (see line 3). Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding claim 2, the limitation “slidably advancing an expulsion member distally” (see lines 1-2) is vague, rendering claim 2 indefinite. Is the “expulsion member” inside the introducer, or outside the introducer?

b. Regarding claim 3, the limitation “generally flat, resilient frame” (see line 2) is vague, rendering claim 3 indefinite. To what “flat” is referring to in the prosthesis?

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Andersen et al. (US 5,411,552 A).

With regards to claims 1-3, Applicants’ broad claim language reads on a method comprising any stent with a valve that has been introduced into the vein in the body via a tubular introducer. Andersen et al. disclose such valve prosthesis and method of implanting it. Regarding

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the collapsibility of the prosthesis, see column 2, lines 31-67. Regarding the use of the prosthesis in veins, see column 3, lines 12-21. The catheter as depicted in Figures 3 and 4 of Andersen '552 reads on the method of introducing the valve prosthesis as claimed, which basically consists of sliding the implant out of a tube and letting it expand in the vein (see entire document).

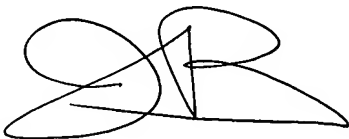
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (7:30 a.m.-4:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB



January 22, 2005



David H. Willse  
Primary Examiner